IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5596 OF 2005

Smt.Chameladevi M. Singh & Ors. ...Petitioners

Versus

The Dy.Collector(ENC) & competent
Authority Kurla-I & Anr. ...Respondents

Shri R.D. Misra for the Petitioner.
Shri A.H.Palekar, A.G.P for Respondent No.1.

CORAM : S.C. DHARMADHIKARI, J.
DATE : JANUARY 16, 2006.

P.C.:

1. Heard Shri Misra learned Counsel appearing for the petitioners and learned A.G.P for respondent No.1.

Service on respondent No.2 dispensed with.

2. Rule. Heard forthwith by consent. First respondent waives service.

3. An order passed by the Appellate Authority under the Maharashtra Slum Area (Improvement, Clearance and Redevelopment) Act, 1971 on Misc.Application No.26 of 2004 is challenged in this petition.

4. The order passed on the delay condonation application is to the effect that the petitioner has not been able to demonstrate as to how the Appeal is within time. The order refusing to condone delay also takes cognizance of the alleged infirmity in the Appeal. Be that as it may, the order substantively is refusing to condone the delay of fourteen days in filing the Appeal.

5. With the assistance of learned Counsel appearing for the parties, I have perused the application (Exh.E) setting-out the grounds for the delay in filing of Appeal. The first-appellant (Petitioner No.1) being Karta of the family and unable to attend to the affairs, on account of his illness, at the relevant time, has stated on oath that it is because of his illness that the Appeal could not be filed within time. This explanation should have been accepted and the delay should have been condoned in the larger interest of justice.

6. In my view, sufficient cause having been made out for condoning delay of fourteen days in filing of this statutory Appeal, the petition deserves to succeed. Rule is made absolute in terms of Prayer Clause (a). The delay in filing Appeal stands condoned. The Appeal be numbered and taken on file

for disposal on merits and in accordance with law, which shall be done as expeditiously as possible and uninfluenced by any observation in the impugned order.

No order as to costs.

(S.C.DHARMADHIKARI,J.)